

REQUEST FOR RECONSIDERATION

Applicants thank Examiner Truong for the helpful and courteous discussion of July 8, 2003. During the discussion, Applicants' U.S. representative provided arguments that inclusion of the term "one or more" in the amended claims is not new matter. The Examiner indicated that a written response identifying support in the specification as originally filed for the inclusion of the term "one or more" may be sufficient to overcome the rejection. Support is provided here including specific page and line citations.

In the Office Action of June 20, 2003, amended Claims 1-20 were rejected under 35 U.S.C. § 112, first paragraph. The Office has asserted that the amendment to the claims to include the terms "one or more" in at least Claims 1, 4 and 16 is new matter. Applicants respectfully traverse the Office's assertion and submit that the amendment to the claims to include the term "one or more" is not new matter as further explained below.

In amended Claim 1 the term "one or more alkylene oxides" appears in the second line. Original Claim 1 did not modify the term "alkylene oxides" with "one or more". On page 15, Example 1 of the specification a reaction product of polylysine and ethylene oxide is disclosed (page 15, lines 5-14). Only one alkylene oxide (ethylene oxide) is present. Example 1 on page 15 fully supports the embodiment where one alkylene oxide is present. Original Claim 1 referred to the alkylene oxides in the plural. Therefore, original Claim 1 fully supports that more than one alkylene oxide may be present. Inclusion of the term "one or more" is therefore not new matter.

Claim 1 was also amended to include the term "one or more of a" to refer to the homocondensate, condensate or cocondensate of amino acids. Original Claim 16 includes the term "and/or" to identify which combinations of the homocondensate, condensate and/or cocondensate can be reacted with the at least one alkylene oxide. The term "and/or" includes both the conjunctive and alternative embodiments and therefore includes all combinations of

the homocondensate, condensate and cocondensate. Therefore original Claim 1 encompasses processes which include reacting only one of the homocondensate, the condensate and the cocondensate; all of the homocondensate, the condensate and the cocondensate; any two of the homocondensate, condensate or cocondensate; and, of course, any combination of these elements.

The products of the process of Claim 16 may be the amino acid-containing polymers of Claim 1. Original Claim 16 inherently provides support for the amendment to Claim 1. Original Claim 16 provides support for inclusion of the term “one or more of a” in amended Claim 1. Therefore, the claimed condensed basic amino acid-containing polymer may contain any one of a homocondensate, condensate, or cocondensate, or any combination of these elements.

The inclusion of the term “one or more of a” in amended Claim 1 is therefore not new matter.

Original Claims 2 and 4 contain Markush groups which limit the basic amino acids or the cocondensable compounds of Claim 1. The Markush group of Claim 2 provides four basic amino acids any one of which may be the basic amino acid of Claim 1. Original Claim 4 provides a Markush group of nine cocondensable compounds or types of compounds any one of which may be the cocondensable compounds of Claim 1. Claim 1 was amended to include the terms “one or more” for both the basic amino acids and the cocondensable compounds. Original Claim 1 referred to both the basic amino acids and cocondensable compounds in the plural. Since original Claim 1 referred to these elements of the claimed invention in the plural there is inherent support that more than one basic amino acid or cocondensable compound may be included.

Original Claims 2 and 4 disclose Markush groups for both the basic amino acids and the cocondensable compounds. Any one of the individual species or sub-genii of Claims 2

and 4 is therefore included supporting that “one” of these elements is included in amended Claim 1. Further, in the Examples (such as Example 6) a cocondensate of lysine and hexamethylenediamine is disclosed (page 16, lines 30-44). The polylysine-co(hexamethylenediamine)-2ethyleneoxide comprises a cocondensate of one basic amino acid (polylysine), one cocondensable compound (hexamethylenediamine) and one alkylene oxide (ethyleneoxide). Therefore, Example 6 supports the amendment to Claim 1 that one basic amino acid, and one cocondensable compound may be present in the claimed basic amino acid-containing polymer.

The arguments presented above for Claim 1 also are applicable to the inclusion of the term “one or more basic amino acids” and the term “one or more carboxylic acid groups” in amended Claim 4. Original Claim 4 contained the plural “carboxylic acid groups” and inherently provides support that more than one carboxylic acid group may be present. Carboxyl-containing compounds are disclosed in the specification on page 5, lines 21-30. In this group of compounds species such as N-methylglycine are disclosed. This compound has only a single carboxyl group. Therefore the amendment to include compounds containing only one carboxylic acid group is supported by the specification as originally filed.

The amendment to Claim 4 is fully supported in the specification as originally filed and does not represent new matter.

Claim 15 was amended to include the term “at least one” in front of the term “alkylating agent”. Support for the amendment is found in original Claim 15 wherein the Markush group provided in the original claim refers to the alkyl halides, benzyl halides and dialkyl sulfate species in the plural. Support that only one alkylating agent can be present is found in Examples 7, 8, and 9 on page 17 where compositions containing a single alkylating agent are disclosed (dimethyl sulfate and benzyl chloride in Examples 7-8 and 9, respectively).

The amendment Claim 15 does not represent new matter.

Claim 16 was amended to include the term “one or more of a” after the term “reacting” and the terms “one or more” in front of the terms “basic amino acids” and “cocondensable compounds”. Support for the amendment is found in the original claim and in the Examples as discussed above for Claim 1.

Applicants submit that the amended claims filed with the Office on June 16, 2003, do not represent new matter and the rejection under 35 U.S.C. § 112, first paragraph should be withdrawn.

Applicants respectfully request the withdrawal of the rejection and of the finality of  
the Office Action of June 20, 2003, in view of Applicants' comments above and withdrawal.

Respectfully submitted,

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